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10/811,390	03/29/2004	John R. Aslanian JR.	2996-101	3073
6449 7590 08/11/2008 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005				
EXAMINER ZURITA, JAMES II				
ART UNIT 3625		PAPER NUMBER		
NOTIFICATION DATE 08/11/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

### Office Action Summary

**Application No.**

10/811,390

**Applicant(s)**

ASLANIAN, JOHN R.

**Examiner**

JAMES ZURITA

**Art Unit**

3625

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 36-107 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36-107 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-08)
- Paper No(s)/Mail Date 07/15/2005; 08/07/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Priority*

Priority is claimed to U.S. Provisional Applications 60/492,964 filed on Aug. 7, 2003 and 60/457,997 filed on Mar. 28, 2003.

### *Drawings*

The drawings are objected to because of minor informalities:

On page 31, dashed lines appear in Fig. 24(B), not Fig. 24(A).

In Fig. 21, item 320 is missing. See page 11 of the specifications.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

The following claims are objected to because of informalities:

Claims 37-52 and 104-107 contain word processing errors and need correction for proper antecedent basis:

Claims 37-52 need correction to ...[a] **the** method as claimed in claim...

Claims 104-107 need correction to ...providing [a] **the** primary message

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112, first paragraph***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 36-107 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 36-107 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 36, 53, 70 and 87, read, in part,

said advertisement being integrated into the electronic greeting card ...such that when seen the advertisement may be perceived by said at least one recipient as part of said electronic greeting card without interfering with said primary message of said electronic greeting card...[emphasis added]

The disclosures do not clarify the limitation. For example,

...combining advertisements on cards in a manner that reduces the size of the card, detracts from the card and/or that is too intrusive and/or forceful can greatly reduce the benefits sought from the card itself (e.g., harming relationships between senders and recipients rather than helping such relationships). [paragraph 0074]

Applicant provides no description of how to obtain the recipient's perception...without interference... and how to obtain opinions and conclusions about obtrusiveness, intrusive and/or forceful or distractive...without interference. Applicant provides no description of how to measure harming or helping a relationship between senders and recipients.

For Examination, the limitations are interpreted as being directed to how space is used on a web page to place messages and advertisements (paragraphs 72, 74-75).

Prior art is interpreted to read on the limitation where prior art discloses the use of HTML and locations of image (e.g., selecting a banner advertisement) and text data on a displayed web page.

***Claim Rejections - 35 USC § 112, second paragraph***

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 36-107 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 36-107 use generating and creating and there does not appear to be a patentable distinction in how applicant uses the terms:

Claims 36 and 70, drawn to methods, use the term generatf...  
claims 48-49 and 82-83 refer to ...electronic greeting card is created.  
Claims 53 and 87 (drawn to systems) also use the term generatf...  
claims 55-69 and 87-101 generatf... the shell electronic greeting card  
claims 65-66 and 99-100 appear to mirror method claims 48-49 and 82-83.

Te specifications use generatf... in the context of generating business [0005], generating revenue [0006], and to computer generated time and date [0088]. The term creatf... appears to match what the claims refer to as generatf....

For purposes of Examination the terms generating and creating are interpreted as synonyms. Prior art will be interpreted as meeting the limitations where prior art discloses creating (i.e., customizing or personalizing) an electronic greeting card and transmitting the customized electronic greeting card to a recipient.

Claims 36, 53, 70 and 87, 48-49, 65-66, 82-83 and 99-100 refer to an unidentified card:

Claims 36, 53, 70 and 87 "...as part of said [shell? modified?] electronic greeting card..."

Claims 87 48-49, 65-66, 82-83 and 99-100 "...said [shell? modified?] electronic greeting card is created..."

It is unclear whether [unidentified] electronic greeting card refer to

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- (a) shell electronic greeting card (generic input, prior to adding a personalized message and adding an advertisement);
- (b) modified electronic greeting card (final output sent to recipient, including the personalized message and the advertisement)
- (c) either (a) and (b); or
- (d) both (a) and (b); or
- (e) something else.

Claims 36, 53, 70 and 87 contain the limitations

generating a shell electronic greeting card including a primary message which a user wishes to convey to at least one recipient

the terms render the claim indefinite, in that it appears that a (generated) shell...card already includes the (customized?) primary message. This is contrary to applicant's specification (Fig. 25, for example). For purposes of Examination, phrase is interpreted as using a shell...card, adding a [...] message to create the modified [...] card.

For Examination, the [unidentified] electronic greeting card is interpreted to refer to the modified electronic greeting card (i.e., final output, viewed by recipient).

Claims 36-107 refer to primary (adj.) message, a relative term that renders the claims indefinite. The term "primary" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

For Examination, primary message is interpreted to refer to a personalized greeting/ message, as in applicant's paragraph 0071 and description of Fig. 24A.

Claims 38, 41-42 and their parallel claims refer to message region. For Examination, the term is interpreted to refer to a location where messages are placed on the web page of a generated electronic greeting card. Prior art is interpreted to read

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on this limitation where prior art disclose the use of HTML and the presence of a message or greeting in such a card.

Claims 39, 41-44 and their parallel claims refer to advertisement region. For Examination, the term is interpreted to refer to a location where advertisements are placed on the web page of a generated electronic greeting card. Prior art is interpreted to read on this limitation where prior art disclose the use of HTML and the presence of an advertisement in such a card.

Claims 41, 58, 75 and 92 refer to

...advertisement region is fixed in relation to said at least one message region

Claims 42, 59, 76 and 93 refer to

...advertisement region is mobile in relation to said at least one [primary?] message region...

For Examination the terms fixed and mobile [regions] are interpreted to refer to animation on an HTML page, as in applicant's paragraph 0080. Prior Art is interpreted to read on the limitations where prior art discloses the use of animation in HTML.

Claims 51, 68, 85 and 102 refer to

...advertisement being part of said primary message

The limitations appear to refer to the spatial location of a message relative to the spatial location of an advertisement in relation to other objects on an HTML page. Prior art is interpreted to read on applicant's limitations where prior art discloses the use of HTML.

Claims 52, 69, 86 and 103 refer to advertisements...secondary (adv.):

...advertisement being **secondary** to said primary message...

The specifications refer to [advertisement]



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...relates to a product or service that is secondary to a purpose of the e-card.  
[Paragraph 0017]

...advertisement relates to a product or service secondary to a purpose of the electronic card [paragraphs 102-103].

Applicant does not describe how to determine purpose other than by a sender's selection and customization of a message. For examination purposes, the term ...advertisement being secondary to said primary message... is met where prior art discloses sending e-card(s) with personalized greetings along with an advertisement.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 36-40, 43-57, 60-74, 77-91 and 94-107, as interpreted, are rejected under 35 U.S.C. 102(e) as being anticipated by Hasegawa (US 7203726).

As per claim 36, Hasegawa discloses method(s) for the electronic distribution of advertisements, said method comprising:

- a. generating a shell electronic greeting card (Hasegawa, Col. 1, lines 19-23)  
including a primary message (e.g., mother's day, Hasegawa Col. 9, lines 12-16;  
inputting a message, as in Hasegawa, Col. 7, lines 32-37)  
which a user (Hasegawa Fig. 1, card sender)

- wishes to convey to at least one recipient (Hasegawa Fig. 1, card receiver, the sender wishes to convey the card by the act of accessing and sending the card);
- b. modifying said shell electronic greeting card to generate a modified electronic greeting card which includes an advertisement integrated into said shell electronic greeting card (Hasegawa, Fig. 5, step SB7, ad selection process)
- said advertisement including information regarding at least one consumer product (Hasegawa, Col. 6, lines 23-32, for example);
- said advertisement being integrated into the electronic greeting card (Hasegawa, Col. 9, lines 13-16)
- such that when seen the advertisement may be perceived by said at least one recipient as part of said electronic greeting card without interfering with said primary message of said electronic greeting card (see Hasegawa, location of advertisements, as in banner and product images, Hasegawa, Col. 6, lines 23-32); and
- c. electronically transmitting via the Internet the modified electronic greeting card to said at least one recipient. See at least Hasegawa, Col. 2, lines 43-49, for example.

Primary message

As per claim 37, Hasegawa discloses providing the primary message related to at least one of the following: an invitation to an event; a holiday, a life event, or a general greeting. See, for example, references to birthday, as in Hasegawa, Col. 9, lines 13-16.

Message region, advertisement region

As per claim 38, Hasegawa discloses providing said primary message within at least one message region within said shell electronic greeting card, in that Hasegawa discloses the use of HTML and the presence of messages/greetings on the created electronic greeting card. Hasegawa, Col. 8, lines 47-50, for example. HTML defines the spatial location of objects on a web page.

As per claim 39, Hasegawa discloses providing said advertisement within at least one advertisement region within said modified electronic greeting card, Hasegawa, Col. 2, lines 42-45, Col. 8, lines 47-50, for example. HTML defines the spatial location of objects on a web page.

As per claim 40, Hasegawa discloses that electronically transmitting via the Internet further comprises sending said modified electronic greeting cards using email; text messaging; or facsimile. Hasegawa, Col. 2, lines 43-49, for example.

As per claim 43, Hasegawa discloses providing said at least one advertisement region containing at least one image related to the consumer product. See, for example, Hasegawa, Col. 6, lines 22-33.

As per claim 44, Hasegawa discloses providing said at least one advertisement region containing at least one hyperlink. See, for example, at least Hasegawa Col. 6, lines 18-23, Col. 8, line 67-Col. 9, line 6.

As per claim 45, Hasegawa discloses enabling the user to select said shell electronic greeting card from a list comprised of a plurality of shell electronic greeting cards. See, for example, at least Hasegawa Fig. 5, item SB2.

As per claim 46, Hasegawa, discloses the step of enabling the user to select said advertisement. Hasegawa, at least Col. 12, lines 47-50.

As per claim 47, Hasegawa discloses the step of enabling the compensation of at least one entity in connection with said step of electronically transmitting via the Internet said modified electronic greeting card to said at least one recipient. See, for example, references to fees and royalties, as in Col. 1, lines 48-64.

As per claim 48, Hasegawa discloses that at least one entity is the provider of the system on which said electronic greeting card is created. See, for example, at least Hasegawa Fig. 1, item 2.

As per claim 49, Hasegawa discloses that said at least one entity is a user of the system on which said electronic greeting card is created. See, for example, at least Hasegawa Fig. 1, item 4.

As per claim 50, Hasegawa, discloses that said modified electronic greeting card includes an audio portion. Hasegawa, Col. 3, lines 21-25, for example.

As per claim 104, Hasegawa discloses that the shell electronic greeting card providing a primary message related to at least one of the following: Holidays; Religious Holidays; Catholic Holidays; Protestant Holidays; Jewish Holidays; Islamic Holidays; Non-Religious Holidays; Mother's Day; April Fool's Day; Birthdays; Family Birthday; Best Friend Birthday; Belated Birthday; Mother Birthday; Father Birthday; Sister Birthday; Daughter Birthday; Son Birthday; Husband Birthday; Wife Birthday; Grandchild Birthday; Grandparent Birthday; Thinking of You; Missing You; Congratulations; Get

Well; Sympathy; Thank You; You're Welcome. See, for example, references to mother's day, as in Hasegawa Col. 9, lines 12-16.

As per claim 51, Hasegawa discloses that the advertisement is part of said primary message. Hasegawa, at least Col. 7, lines 55-60, since Hasegawa discloses sending e-card(s) with personalized greetings along with an advertisement.

As per claim 52, Hasegawa discloses that the advertisement being secondary to said primary message. Hasegawa, at least Col. 8, lines 47-50.

Claim 60 is rejected on the same grounds as claim 43.

Claim 77 is rejected on the same grounds as claim 43.

Claim 94 is rejected on the same grounds as claim 43.

Claim 61 is rejected on the same grounds as claim 44.

Claim 78 is rejected on the same grounds as claim 44.

Claim 95 is rejected on the same grounds as claim 44.

Claim 62 is rejected on the same grounds as claim 45.

Claim 79 is rejected on the same grounds as claim 45.

Claim 96 is rejected on the same grounds as claim 45.

Claim 63 is rejected on the same grounds as claim 46.

Claim 80 is rejected on the same grounds as claim 46.

Claim 97 is rejected on the same grounds as claim 46.

Claim 64 is rejected on the same grounds as claim 47.

Claim 81 is rejected on the same grounds as claim 47.

Claim 98 is rejected on the same grounds as claim 47.

Claim 65 is rejected on the same grounds as claim 48.

Claim 82 is rejected on the same grounds as claim 48.

Claim 99 is rejected on the same grounds as claim 48.

Claim 66 is rejected on the same grounds as claim 49.

Claim 83 is rejected on the same grounds as claim 49.

Claim 100 is rejected on the same grounds as claim 49.

Claim 67 is rejected on the same grounds as claim 50.

Claim 84 is rejected on the same grounds as claim 50.

Claim 101 is rejected on the same grounds as claim 50.

Claim 68 is rejected on the same grounds as claim 51.

Claim 85 is rejected on the same grounds as claim 51.

Claim 102 is rejected on the same grounds as claim 51.

Claim 103 is rejected on the same grounds as claim 52.

Claim 86 is rejected on the same grounds as claim 52.

Claim 69 is rejected on the same grounds as claim 52.

Claim 105 is rejected on the same grounds as claim 104.

Claim 106 is rejected on the same grounds as claim 104.

Claim 107 is rejected on the same grounds as claim 104.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-42, 58-59, 75-76 and 92-93, as interpreted, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa (US 7203726) in view of Chen (US 6836792).

As per claims 41-42, Hasegawa does not specifically disclose that the at least one advertisement region is fixed in relation to said at least one message region (claim 41) and that the at least one advertisement region is mobile in relation to said at least one message region (claim 42). Chen discloses the use of HTML with animation in advertisements, as in Col. 8, lines 18-26.

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Hasegawa to have included the use of HTML with animation in advertisements, as disclosed by Chen to disclose that the at least one advertisement region is fixed in relation to said at least one message region (claim 41) and that the at least one advertisement region is mobile in relation to said at least one message region (claim 42) because the incorporation of such features is no more than the predictable use of prior art elements according to their established function.

Claim 58 is rejected on the same grounds as claim 41.

Claim 75 is rejected on the same grounds as claim 41.

Claim 92 is rejected on the same grounds as claim 41.

Claim 59 is rejected on the same grounds as claim 42.

Claim 76 is rejected on the same grounds as claim 42.

Claim 93 is rejected on the same grounds as claim 42.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES ZURITA whose telephone number is (571)272-6766. The examiner can normally be reached on 8am-5pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/JAMES ZURITA/  
Primary Examiner  
Art Unit 3625  
19 July 2008**